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Hearing Date: January 10, 2013
Hearing Time: 10:00 A.M. EST

Objections Due: November 12, 2012

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
And Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)

**NOTICE OF TRUSTEE'S MOTION FOR AN ORDER AFFIRMING
TRUSTEE'S CALCULATIONS OF NET EQUITY
AND DENYING TIME-BASED DAMAGES**

PLEASE TAKE NOTICE that Irving H. Picard, trustee ("Trustee") for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC ("BLMIS") and the

estate of Bernard L. Madoff (“Madoff”) (collectively, “Debtor”), by and through his undersigned counsel, will move before the Honorable Burton R. Lifland, United States Bankruptcy Judge, at the United States Bankruptcy Court, the Alexander Hamilton Customs House, One Bowling Green, New York, New York 10004, on **January 10, 2013 at 10:00 a.m.**, or as soon thereafter as counsel may be heard, seeking entry of an order Affirming the Trustee’s Calculations of Net Equity and Denying Time-Based Damages, to affirm the Trustee’s determination that net equity, as that term is defined under of the Securities Investor Protection Act (“SIPA”), 15 U.S.C. § 78aaa, *et seq.*, does not include interest, time value of money, or inflation adjustments such as constant dollar (collectively, “Time-Based Damages”), and

PLEASE TAKE FURTHER NOTICE that a scheduling order was entered by this Court on September 5, 2012 (the “Time-Based Damages Scheduling Order”) and is attached hereto as Exhibit A. As set forth in the Time-Based Damages Scheduling Order, claimants who wish to participate in the briefing on this issue (“Objecting Claimants”) shall file a memorandum of law in opposition (“Opposition Briefs”) to the motion (the “Time-Based Damages Motion”). Objecting Claimants must identify: (i) the claimant’s interest in this matter, including, but not limited to, whether the claimant had an account at BLMIS, (ii) the timely-filed customer claim, if applicable, and (iii) the docket numbers of any objections to the Trustee’s claim determination, and any other submissions to this Court or any other court related to this liquidation proceeding, if applicable. Failure to file timely Opposition Briefs shall bar those claimants from being heard on this issue, unless the Trustee agrees or the Court orders otherwise, and the Court’s Order on the Time-Based Damages Motion shall be binding on them; and

PLEASE TAKE FURTHER NOTICE that in accordance with the Time-Based Damages Scheduling Order attached hereto as Exhibit A, the Objecting Claimants are encouraged by the

Court, but not required, to choose one lead firm to brief the issue, or to brief particular issues, as may be appropriate; and

PLEASE TAKE FURTHER NOTICE that, in accordance with the Time-Based Damages Scheduling Order attached hereto as Exhibit A, Opposition Briefs must conform to applicable rules of this Court and be filed with the Clerk of the United States Bankruptcy Court, One Bowling Green, New York, New York 10004, in accordance with General Order 242 by no later than **November 12, 2012** (“Objection Deadline”) (with a courtesy copy delivered to the Chambers of the Honorable Burton R. Lifland) and must be served upon (a) Baker & Hostetler LLP, counsel for the Trustee, 45 Rockefeller Plaza, New York, New York 10111, Attn: David J. Sheehan; and (b) Securities Investor Protection Corporation, 805 15th Street, N.W., Suite 800, Washington, D.C. 20005, Attn: Kevin H. Bell, so as to be received no later than the Objection Deadline; and

PLEASE TAKE FURTHER NOTICE that in accordance with the Time-Based Damages Scheduling Order attached hereto as Exhibit A, on or before **November 19, 2012**, any Interested Parties, defined as governmental entities, and specifically including the Securities & Exchange Commission and the Internal Revenue Service, may file briefs relating to the Time-Based Damages Issue. Any such briefs must be served upon (a) Baker & Hostetler LLP, counsel for the Trustee, 45 Rockefeller Plaza, New York, New York 10111, Attn: David J. Sheehan, Esq., and (b) the Securities Investor Protection Corporation, 805 Fifteenth Street, NW, Suite 800, Washington, DC 20005, Attn: Kevin H. Bell, Esq.; and

PLEASE TAKE FURTHER NOTICE that the Court shall hold a hearing on the Time-Based Damages Motion on **January 10, 2013, at 10:00 a.m.**, or such other time as the Court determines. As stated in the Time-Based Damages Scheduling Order, the Court will only

consider the legal issues raised in the claims and objections relating to the Time-Based Damages Issue as a component for calculation of customer claims. Any other arguments will be resolved at a later date.

Dated: New York, New York
October 12, 2012

Of Counsel:

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